

## Instructions for Completing an Application for Hearing and Notice to Set, or a Response to Application for Hearing, for a Workers' Compensation Hearing

1. A party proceeding without an attorney must follow the same procedures as does an attorney. A party proceeding without an attorney is presumed to understand the legal principles that govern the claim, and must be prepared to accept the consequences of failure to follow the law and the rules of procedure. These instructions do not cover all of the situations that may present during the litigation of a claim. If you wish to consider retaining an attorney, a list from the Colorado Bar Association of attorneys practicing in the area of Workers' Compensation is available at <http://www.coworkforce.com/DWC/> or upon request to the **Office of Administrative Courts, (303) 866-2000**. If you choose to proceed without an attorney, you will need to be familiar with the **Workers' Compensation Act of Colorado (Act)**, Title 8, **Colorado Revised Statutes (CRS)**, the **Workers' Compensation Rules of Procedure (WCRP)**, and the **Office of Administrative Courts' Rules of Procedure (OACRP)**. The Act and the WCRP are available online at <http://www.coworkforce.com/DWC/>. The OACRP is available online at <http://www.colorado.gov/dpa/oac>. Printed copies of the Act are available from the **Division of Workers' Compensation, (303) 318-8700**. At any hearing, the **Colorado Rules of Evidence (CRE)** will apply, and you must be familiar with those rules. Section 8-43-210, CRS. Clerks at the Office of Administrative Courts can provide some procedural guidance, but cannot offer any legal advice. The Administrative Law Judge must remain impartial and neutral, and will not assist you before, during, or after the hearing. The brochure, "So, You Are Thinking of Representing Yourself In Your Workers' Compensation Case" may be of assistance to you. A copy will be mailed to you upon request. Call (303) 866-2000 to request a copy.

2. You are advised, but not required, to attach a copy of the most recent Admission of Liability, or Notice of Contest, or, if neither of those have been filed, then a copy of the Workers' Claim for Compensation or Employer's First Report of Injury, with the completed Application for Hearing and Notice to Set.

3. The Colorado Office of Administrative Courts conducts hearings regarding Workers' Compensation Claims. Hearings are conducted in Alamosa, Colorado Springs, Denver, Durango, Ft. Collins, Glenwood Springs, Grand Junction, Greeley, and Pueblo. The hearing will be conducted in the city closest to the claimant's residence, unless a judge has ordered the hearing to take place at another location. Rule 8(B), OACRP. If the claimant's residence is closest to Denver, Ft. Collins, or Greeley, the Application for Hearing and Notice to Set must be filed in the Denver office of the Office of Administrative Courts. If the claimant's residence is closest to Alamosa, Colorado Springs, or Pueblo, the Application for Hearing and Notice To Set must be filed in the Colorado Springs office of the Office of Administrative Courts. If the claimant's residence is closest to Durango, Glenwood Springs, or Grand Junction, the Application for Hearing and Notice to Set must be filed in the Grand Junction office of the Office of Administrative Courts. At the top of the Application for Hearing form, indicate the city where the Application for Hearing and Notice to Set will be filed. At the end of the second page of the Application, you must also indicate that the application was filed in that city.

4. On the Application for Hearing and Notice to Set, you must indicate the name of the claimant, the employer, the insurer, and the Workers' Compensation (WC) claim number. The Notice of Contest, or Admission of Liability, will indicate the correct names and WC number. This information may also be obtained from Customer Service at the Division of Workers' Compensation, (303) 318-8700. The Date of Injury is optional. You may put down the date of the accidental injury, or, for an occupational disease, the date the claimant first missed work or sought medical care as a result of the disease. Only one WC number should be given, unless a judge has granted a Motion to Consolidate. Rule 9-6, WCRP. If a motion to consolidate was granted, list all of the WC numbers to be set for hearing.

## 5. **Application for Hearing- Section A:**

Indicate your name and the hearing location nearest the claimant's residence.

Unless "Compensability" will be an issue at the hearing, you must attempt to resolve all issues with the other parties. Section 8-43-211(1)(e), C.R.S. Check the box if you have contacted the other parties and attempted to resolve the issues.

Indicate the issues that are ready for determination and that you wish to be heard at the hearing.

"Compensability" should be checked only if no Admission of Liability has been filed by the respondent. A claim is compensable if, at the time of the injury, the employer and the employee are both covered by the Act and the claimant was performing services arising out of and in the course of the claimant's employment. Section 8-41-301, C.R.S.

"Medical Benefits – Authorized provider" should be marked as an issue if there is a dispute concerning which medical providers are authorized to provide care for the injury. Section 8-43-404(5), C.R.S.

"Medical Benefits – Reasonably necessary" should be marked as an issue if there is a dispute as to what medical care is reasonably needed to cure and relieve the claimant from the effects of the industrial injury. Section 8-42-101, C.R.S. This should be checked should the claimant seek continuing medical care either before or after maximum medical improvement.

"Average Weekly Wage" must be determined in order for the claimant to receive temporary or permanent disability benefits. Sections 8-40-201, C.R.S. Average weekly wage (AWW) should be marked as an issue if it has not been determined, or if a party disputes the AWW admitted by the respondents.

"Petition to Reopen" should be marked as an issue when a case has been closed by a Final Admission or Order, and a Petition to Reopen has been filed seeking further benefits. Rule 7-3, WCRP; Section 8-43-303, C.R.S.

"Disfigurement" is an issue if the claimant is seeking additional compensation for any scar or other disfigurement that resulted from the compensable injury. Section 8-42-108, C.R.S. Instead of appearing at a hearing, you may have your disfigurement award based upon photographs, or request a hearing to only determine disfigurement. Rule 10, OACRP. Call (303) 866-5508 to request a form.

"Temporary Total Disability Benefits" are an issue if the claimant leaves work for more than three shifts as a result of the compensable injury. Sections 8-42-103 and 105, C.R.S.

"Temporary Partial Disability Benefits" are an issue if the claimant has sustained a partial wage loss as a result of the compensable injury. Sections 8-42-103 and 106, C.R.S.

"Permanent Partial Disability Benefits" are payable after a claimant reaches maximum medical improvement and has sustained a permanent medical impairment determined by an authorized treating physician (ATP) or Division Independent Medical Examiner (DIME). Section 8-42-107, C.R.S. If the impairment is not a scheduled injury (Section 8-42-107(2), C.R.S.), no Application for Hearing can be filed and no hearing may be held until a DIME physician has submitted a report. Section 8-42-107(8), C.R.S.

"Permanent Total Disability Benefits" are an issue if the claimant has reached maximum medical improvement and the claimant is unable to earn a wage as a result of the compensable injury. Sections 8-40-201(16.5) and 8-42-111, C.R.S.

"Death Benefits" are payable to the dependents of a worker who has died as a result of work-related injuries. Section 8-42-114 to 117, C.R.S.

"Penalties" may be required to be paid by a party that violates a provision of the Act, the WCRP, or an order of a judge. If you are seeking a penalty, you must list the specific section of the Act that another party violated, and if you seek a penalty under the general penalty provision, Section 8-43-304, C.R.S., you must state with specificity the grounds on which the penalty is being asserted.

“Other Issues” – you may seek to have other issues relevant to your workers’ compensation claim heard. If you do, indicate what those other issues are and the appropriate sections of the Act that pertain to those issues.

Be careful in listing issues for hearing. If an issue is left out, it may not be litigated at the hearing or decided by the ALJ. Rule 12, OACRP. If an issue is listed that is not ripe for adjudication, you may be assessed the reasonable attorney fees of an opposing party. Section 8-43-211(1)(d), C.R.S. Pre-Hearing ALJs may assist you in determining the appropriate issues for hearing and help you resolve the outstanding issues. To schedule a pre-hearing conference, call (303) 866-5508.

6. “Witnesses” – At the top of the second page, give the names and addresses of any witnesses you wish to have testify at your hearing. Rule 13, OACRP. You must arrange for the witness to be available and pay any expert witness fees. Rule 18-6, WCRP. Upon request, a judge may issue a subpoena for you to serve upon a listed witness. Section 8-43-207(1), WCRP. If you plan to testify on your own behalf, you should list yourself as a witness. You need not list the authors of any medical reports or employment records if you are not calling those authors as witnesses at hearing or in a deposition. You may present any relevant medical reports or employer records that you wish the ALJ to consider. Section 8-43-210, C.R.S. You must provide a copy of any medical report you receive to all opposing parties within 15 days of receipt. Rule 5-4 WCRP.

7. **Section B – Request for the OAC to Set the Matter for Hearing:** If you are not represented by an attorney, you may request that the Office of Administrative Courts set the date and time of the hearing for you. The hearing will be set to occur within 100 days of the date of the filing of the Application for Hearing. You will not have any say in the date and time selected. If you mark the box in Section B, skip Section C, and complete Sections D and E. If you want to take part in selecting the date and time of the hearing, do not check the box in Section B, but you must complete Sections C, D, and E.

8. **Section C - Notice to Set:** If you want to take part in selecting the date and the time of the hearing, complete this section to establish the date and time of the setting of the hearing. Check the box for Denver if you will file the Application for Hearing in Colorado Springs or Denver. Check the box for Grand Junction if you will file the Application for Hearing in Grand Junction. The date and time of the setting must be completed whether the box for Denver or Grand Junction was selected. The setting date must be on a Tuesday, Wednesday, or Thursday between the hours of 8 am and 12 noon or 1 pm to 3 pm at least 10 days and no more than 20 days after the date the Application for Hearing and Notice to Set is mailed. At that time, you must obtain available dates for your hearing, contact opposing parties to agree on a date and time, and confirm in writing the hearing location, date, and time with the Denver, Colorado Springs, or Grand Junction offices of the Office of Administrative Courts. A written confirmation of the hearing date must be received by the OAC within five days of the date listed for the setting. Rule 8(K), OACRP

9. **Section D – Signature:** You must sign the Application for Hearing, and give your address if you are not represented by an attorney. You may also give a fax number or e-mail address if you wish the Office of Administrative Courts or opposing parties to contact you by fax or e-mail.

10. **Section E – Certificate of Mailing:** Copies of the Application for Hearing must be mailed to the Office of Administrative Courts and to all parties and any attorneys who have entered their appearance of record. Section 8-43-211, C.R.S.; Rule 6, OACRP. The names and addresses of all parties and the attorneys may be obtained by calling Customer Service at the Division of Workers’ Compensation at (303) 318-8700.

11. After a case is set for hearing, an extension of time of up to 60 days to commence the hearing may be granted upon agreement of the parties or certain other conditions. Section 8-43-209, C.R.S.; Rule 14, OACRP.

12. If you and the opposing parties resolve the issues, or agree not to proceed to hearing on the application, you must promptly cancel the hearing by notifying the appropriate office of the Office of Administrative Courts. Rule 15, OACRP.

13. **Response to Application for Hearing:** A Response to Application for Hearing or a Notice of Entry of Appearance must be filed before the date of the hearing setting. Rule 8(G), OACRP. The Response or a Notice of Entry of Appearance must be filed in the same office of the Office of Administrative Courts where the Application was filed. You should indicate on the top of the Response the office where the Response will be

filed. If a Notice of Entry of Appearance is filed rather than a Response, the Response must be filed within 30 days of the date of the Application for Hearing and Notice to Set.

**Section A – Response to Application for Hearing:** Indicate the name of the party filing the response. You may also indicate additional issues to be heard at the hearing by checking the appropriate box or boxes. See Paragraph 5 above for a definition of the issues. Affirmative defenses, such as termination of temporary disability benefits, reduction in benefits for a safety rule violation, offsets, etc., must be marked on the Response in order to be considered at the hearing.

Be careful in listing issues for hearing. If an issue is left out, it may not be litigated at the hearing or decided by the ALJ. Rule 12, OACRP. If an issue is listed that is not ripe for adjudication, you may be assessed the reasonable attorney fees of an opposing party. Section 8-43-211(1)(d), C.R.S. Pre-Hearing ALJs may assist you in determining the appropriate issues for hearing and help you resolve the outstanding issues. To schedule a pre-hearing conference, call (303) 866-5508.

14. **“Witnesses”** – At the top of the second page, give the names and addresses of any witnesses you wish to have testify at your hearing. You must arrange for the witness to be available and pay any expert witness fees. Rule 18-6, WCRP. Upon request, a judge will issue a subpoena for you to serve upon a listed witness. Section 8-43-207(1), C.R.S. If you plan to testify on your own behalf, you should list yourself as a witness. You need not list the authors of any medical reports or employment records if you are not calling those authors as witnesses at hearing or in a deposition. You may present any relevant medical reports or employer records that you wish the ALJ to consider. Section 8-43-210, C.R.S. You must provide a copy of any medical report you receive to all opposing parties within 15 days of receipt. Rule 5-4, WCRP.

15. **Response Section D - Signature:** You must sign the Response to Application for Hearing, and give your address if you are not represented by an attorney. You may also give a fax number or e-mail address if you wish the Office of Administrative Courts or opposing parties to contact you by fax or e-mail.

16. **Response Section E – Certificate of Mailing:** Copies of the Response to Application for Hearing must be mailed to the Office of Administrative Courts and to all parties or an attorney for a party who has entered his or her appearance of record. Section 8-43-211, C.R.S.; Rule 6, OACRP.

17. **Case Information Sheet (CIS):** Each party individually, or the parties jointly, are required to file a Case Information Sheet (CIS) no more than 20 days and no less than 5 days prior to the date of the hearing, except for disfigurement only hearings or as ordered by a Judge. Rule 20, OACRP. A copy of the form is available on the Web at <http://www.colorado.gov/dpa/oac>.

18. **Application for Expedited Hearing:** Rule 9, OACRP. A claimant may file an Application for Expedited Hearing if a Notice of Contest has been filed within the previous 45 days, or if there is an urgent need for prior authorization of health care services, as recommended in writing by an authorized treating provider and prior authorization has been denied. A form Application for Expedited Hearing may be obtained from the Web at <http://www.colorado.gov/dpa/oac>. Documents must be attached to an Application for Expedited Hearing that show that the applicant does qualify for an expedited hearing. If an expedited hearing is appropriate, the hearing will be set to occur within 40 days of the date of the Application for Expedited Hearing (rather than the usual 80-100 days from the date of the Application). A Response to Application for Expedited Hearing may be filed within ten days of the Application for Expedited Hearing. The same form as a Response to Application for Hearing may be used. A clerk of the OAC will select the date, time and place of the hearing without input from the parties. The issues at the hearing will be limited to those issues provided by Rule 9, OACRP, or as agreed to by the parties.

19. **Application for Hearing – Disfigurement Only:** Rule 10, OACRP. A claimant may request a determination of additional compensation for disfigurement by submitting a Request for Disfigurement Award with photographs, or by filing an Application for Hearing – Disfigurement Only. The form may be obtained from the Web at <http://www.colorado.gov/dpa/oac>. If an Application for Hearing – Disfigurement Only is filed, a clerk of the OAC will select the date and time for hearing to occur within 40 days of the Application, without input from the parties. A response to the Application is optional, and may be filed within 10 days of the filing of the Application for Hearing – Disfigurement Only. The same form as a Response to Application for Hearing may be used. At the hearing, only the issue of disfigurement will be considered.